

BACKGROUND COMMENTS ON DoD 5200.28
AND PROPOSED MODIFIED WORDING

The current version of DoD 5200.28, and all proposed drafts we have seen, contain a paragraph stating that (our paraphrase) "AIS's that process foreign intelligence must meet the standards of this directive and of DCID 1/16." The version of 5200.28 dated 3 April 1987 contains the following paragraph:

"6. AISs processing foreign intelligence and/or counterintelligence (e.g., sensitive compartmented information (SCI) shall comply with this Directive and DCID No 1/16 (reference (e)). In case of conflict, the most stringent requirements shall apply."

In responding to the comments on the draft DCID 1/16, we have found an area of confusion that is an outgrowth of the interaction of the two documents, 5200.28 and DCID 1/16. Several military organizations have taken the position that DCID 1/16 applies ONLY TO SCI, not to any other intelligence or counterintelligence. Some military organizations have asserted the "extending the coverage of DCID 1/16 to include non-SCI" would be a significant change and require substantially more resources to implement.

Clearly, the drafters of 5200.28 have not shared this view, since the current and proposed 5200.28's all include the SCI reference as an example, not as a limiting statement.

Recommended Change to DoD 5200.28

We recommend that the following paragraph be put in the revised DoD 5200.28 to clarify this situation:

6. AISs processing foreign intelligence and/or counterintelligence shall comply with DCID No 1/16 (reference (e)). "Intelligence" includes sensitive compartmented information, special access programs for intelligence, and other intelligence that involves sensitive sources or methods (sometimes referred to as collateral intelligence) that is or should be marked WNINTEL: intelligence that identifies or would reasonably permit identification of a source or method susceptible to countermeasures that could nullify or reduce its effectiveness. DCID 1/16 does not establish policy for the protection of information that has been properly sanitized according to approved policies and procedures for release outside the Intelligence Community. The appropriate sanitization policies allow for the removal of the WNINTEL marking from such material. Director of Central Intelligence policy for sanitization of intelligence is set forth in Section IIB of the Imagery Policy Manual, dated 23 August 1985 and in Volumes I and II of the Signals Intelligence Security Regulations, dated December 1984 and August 1985 respectively, (and in successor Volumes). Sanitized intelligence processed in AISs or networks within DoD will be protected in accordance with this directive (i.e., DoD 5200.28).

CHANGE AGREED TO BY C3I (Diane Fontaine)
8 October 1987

"This directive and DCID 1/16 (ref i) shall apply to AISs processing
foreign intelligence and/or counterintelligence."